

Executive Summary

R657-16. Aquaculture and Fish Stocking.

This rule: 1) establishes the procedures and standards for institutional aquaculture; private fish ponds; short term fishing events; private fish stocking and displaying aquaculture products or aquatic wildlife in aquaria.

There are no proposed revisions to this rule at this time. This review meets the 5-year required review for this rule.

R657. Natural Resources, Wildlife Resources.

R657-16. Aquaculture and Fish Stocking.

R657-16-1. Purpose and Authority.

(1) Under the authority of Sections 23-15-9 and 23-15-10 of the Utah Code, this rule provides the standards and procedures for:

- (a) institutional aquaculture;
- (b) private fish ponds;
- (c) short-term fishing events;
- (d) private fish stocking; and
- (e) displaying aquaculture products or aquatic wildlife in aquaria.

(2) This rule does not cover fee fishing and commercial aquaculture as provided in Title 4, Chapter 37, Parts 2 and 3; and the Department of Agriculture Rule R58-17.

(3) A person engaging in any activity provided in Subsection (1) must also comply with the provisions set forth in Rule R657-3 and the Department of Agriculture Rule R58-17.

(4) Any violation of, or failure to comply with, any provision of this rule or any specific requirement contained in a certificate of registration issued pursuant to this rule may be grounds for revocation or suspension of the certificate of registration or denial of future certificates of registration, as determined by a division hearing officer.

R657-16-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Aquaculture" means the husbandry, production, harvest, and use of aquatic organisms under controlled, artificial conditions.

(b) "Aquaculture facility" means any facility used for propagating, rearing, or producing aquatic wildlife or aquaculture products. Facilities that are separated by more than 1/2 mile, or facilities that drain to, or are modified to drain to, different drainages are considered to be separate aquaculture facilities, regardless of ownership.

(c)(i) "Aquaculture product" means privately purchased aquatic wildlife or their gametes.

(ii) "Aquaculture product" does not include aquatic wildlife obtained from the wild.

(d) "Aquarium" means any container located in an indoor facility that is used to

hold fish from which no water is discharged, except during periodic cleaning, and which discharged water is passed through a filtering system capable of removing all fish and fish eggs and is disposed of only in a septic tank approved by the county or in a municipal wastewater treatment system approved by either the state or local health department.

(e) "Display" means to hold live aquaculture products or aquatic wildlife in an aquarium for the purpose of viewing for commercial or noncommercial purposes.

(f) "FEMA" means Federal Emergency Management Administration.

(g) "Institutional aquaculture" means aquaculture engaged in by any institution of higher learning, school, or other educational program, or public agency.

(h) "Ornamental fish" means fish that are raised or held for their beauty rather than use, or that arouse interest for their uncommon or exotic characteristics, including tropical fish, goldfish, and koi, but not including those species listed as prohibited or controlled in Rule R657-3-34.

(i) "Private fish pond" means a pond, reservoir, or other body of water, or any fish culture system which is contained on privately owned land and used for holding or rearing fish for a private, noncommercial purpose.

(j) "Private stocking" means noncommercial stocking of live aquaculture products in waters of the state not covered by a certificate of registration for a private fish pond or other private fish facility.

(k) "Purchase" means to buy, or otherwise acquire or obtain through barter, exchange, or trade for pecuniary consideration or advantage.

(l) "Short-term fishing event" means any event where privately acquired fish are held or confined for a period not to exceed seven days for the purpose of providing fishing or recreational opportunity and where no fee is charged as a requirement to fish.

R657-16-3. Certificate of Registration Required.

(1) A certificate of registration is required before any person may engage in any of the following activities:

(a) produce, propagate, rear, or culture any aquatic wildlife or aquaculture product;

(b) privately stock fish;

(c) acquire aquaculture products for a short-term fishing event; or

(d) display aquaculture products in an aquarium, except a certificate of registration is not required for ornamental fish held in an aquarium.

(2) Only species approved by the division and listed on the certificate of registration may be possessed and used in conjunction with the activities covered by this rule.

(3) No aquaculture facility shall be developed on natural lakes or natural flowing streams, or reservoirs constructed on natural stream channels as provided in Section 23-15-10. Other waters, including canals, off-stream reservoirs or ponds, and excavated ponds or raceways, may be considered for an aquacultural use.

R657-16-4. Application for Certificates of Registration.

(1) An application for a certificate of registration must be submitted to the Wildlife Registration Office, Utah Division of Wildlife Resources, 1594 West North Temple, Salt Lake City, Utah 84114.

(2) The application may require up to 45 days for processing, except for a short-term fishing event, which may require up to 10 days for processing.

(3) Application forms are available at all division offices and at the division's Internet address.

(4) Applications that are incomplete, filled out incorrectly, or submitted without the appropriate fee may be returned to the applicant.

R657-16-5. Renewal of Certificates of Registration.

(1) Certificates of registration are valid for the dates identified on the certificate of registration.

(2) Certificates of registration are renewable on or before the expiration date as identified on the certificate of registration.

R657-16-6. Failure to Renew Certificates of Registration Annually.

(1) If an operator of an aquaculture facility, or private fish pond fails to renew the certificate of registration annually, or the hearing officer suspends the certificate of registration, all live aquatic wildlife or aquaculture products permitted under the certificate of registration shall be disposed of as follows:

(a) Unless the Wildlife Board orders otherwise, all aquatic wildlife or aquaculture products must be removed within 30 days of revocation or the expiration date of the certificate of registration, or within 30 days after ice-free conditions on the water; or

(b) At the discretion of the division, aquatic wildlife or aquaculture products may remain in the waters at the facility, but shall only be taken as prescribed within Rule R657-13 for Taking Fish and Crayfish.

(2) Aquatic wildlife or aquaculture products from a facility not health approved under Section 4-37-501 may not be moved alive.

(3) Aquatic wildlife or aquaculture products from an aquatic facility infected with any of the pathogens specified in the Department of Agriculture Rule R58-17 must be disposed of as directed by the division to prevent further spread of such diseases.

R657-16-7. Importation.

(1)(a) To import live aquatic wildlife or aquaculture products into Utah, a certificate of registration is required.

(b) Species of aquatic wildlife or aquaculture products that may be imported are provided in Rule R657-3-34.

(2)(a) To import live grass carp (*Ctenopharyngodon idella*), each fish must be verified as being triploid by the U.S. Fish and Wildlife Service.

(b) The form verifying triploidy must be obtained from the supplier and be on file with the Wildlife Registration Office of the division in Salt Lake City prior to importation.

(c) A copy of this form must also accompany the fish during transport.

(3) Applications to import aquatic wildlife or aquaculture products are available from all division offices and must be submitted to the division's Wildlife Registration

Office in Salt Lake City. Applications may require up to 45 days for action.

R657-16-8. Acquiring and Transferring Aquaculture Products.

(1) Live aquatic wildlife or aquaculture products, other than ornamental fish, may be:

(a) purchased or acquired only from sources that have a valid certificate of registration from the Utah Department of Agriculture and Food to sell such products or from a person located outside Utah if both the species and the source are approved on a certificate of registration for importation or by the Utah Department of Agriculture and Food; and

(b) acquired, purchased or transferred only from sources which have been health approved by the Utah Department of Agriculture and Food and assigned a fish health approval number as provided in Section 4-37-501. This also applies to separate facilities owned by the same individual, because each facility is treated separately, regardless of ownership.

(2)(a) Any person who has been issued a valid certificate of registration may transport live aquatic wildlife or aquaculture products as specified on the certificate of registration to the facility or approved stocking site.

(b) Except as provided in Subsection (3), all transfers or shipments of live aquatic wildlife or aquaculture products must be accompanied by documentation of the source and destination of the fish, including:

(i) name, address, certificate of registration number, and fish health approval number of the source;

(ii) number and weight being shipped, by species; and

(iii) name, address, and certificate of registration number of the destination, if the destination is a fish hatchery or private water; or

(iv) name, address, county, and division water identification number if the destination is a public water.

(3)(a) Live aquatic wildlife or aquaculture products may be shipped through Utah without a certificate of registration provided that:

(i) the aquatic wildlife or aquaculture products are not sold or transferred;

(ii) the aquatic wildlife or aquaculture products remain in the original container;

(iii) the water is not exchanged or discharged; and

(iv) the shipment is in Utah no longer than 72 hours.

(b) Proof of legal ownership and destination must accompany the shipment.

R657-16-9. Inspection of Records and Facilities.

(1) The following records and information must be maintained for a period of two years and must be available for inspection by a division representative during reasonable hours:

(a) records of purchase, acquisition, distribution, and production histories of aquatic wildlife or aquaculture products;

(b) certificates of registration; and

(c) valid identification of stocks.

(2) Division representatives may conduct pathological, fish culture, or physical

investigations at any facility, pond, or holding facility during reasonable hours.

R657-16-10. Private Fish Ponds.

(1) A certificate of registration is required to produce, propagate, rear, or possess any aquatic wildlife or aquaculture product in a private fish pond for private, noncommercial purposes. A separate certificate of registration is required for each private fish pond as defined under aquaculture facility.

(2) A private fish pond owner or operator may not sell, donate, or transfer live fish or live fish eggs, except approved species may be transferred to the private fish pond from an approved source.

(3) A fishing license is not required to take fish from a certificated private fish pond.

(4)(a) To transport dead fish without a license, a person must have a receipt which contains the following information:

(i) species and number of fish;

(ii) date caught;

(iii) certificate of registration number of the private fish pond; and

(iv) name, address, and telephone number of the owner of the private fish pond.

(b) Any person that has a valid fishing license may transport up to a legal limit of dead fish from a private fish pond without further documentation.

(5)(a) A certificate of registration for a private fish pond may be obtained by submitting an application and paying a fee in the amount established by the Wildlife Board.

(b) A certificate of registration may be issued after a division representative inspects the private fish pond, and confirms that the pond:

(i) meets all requirements stipulated in this rule and Title 23 of the Utah Code; and

(ii) poses no identifiable adverse threat to other wildlife species or their habitat.

(c) The following conditions apply to the stocking of nonnative fish in the Upper Colorado River Basin:

(i) private ponds within the 50-year flood plain may be stocked with largemouth bass, bluegill, mosquitofish, or triploid grass carp provided the pond is bermed in accordance with FEMA standards; and

(ii) outlets must be screened with 1/4 inch or smaller mesh, or other anti-escapement device acceptable to the division, to prevent the escape of fish; or

(iii) isolated fish ponds, having no connection to the river that are above the 50-year flood plain, may be stocked with largemouth bass, bluegill, mosquitofish, or triploid grass carp; or

(iv) isolated private ponds, having no connection to the river that are above 6,500-foot mean sea level (msl) and above the 100-year flood plain may be stocked with fathead minnow or channel catfish; and

(v) outlets must be screened with 1/4 inch or smaller mesh, or other anti-escapement device acceptable to the division, to prevent the escape of fish.

(d) A certificate of registration may be renewed annually for six consecutive years by submitting an application each year, paying a fee in the amount established by

the Wildlife Board and submitting the records described in Subsection (6). After a period of six years, or in the event the annual renewals are not maintained for any reason, the water shall again undergo original application, inspection, and payment of a fee in the amount established by the Wildlife Board.

(6)(a) Any person that possesses a certificate of registration for a private fish pond must submit to the division a report of all live fish purchased or acquired during the year. This report must contain the following information:

- (i) name, address, and certificate of registration number of the seller or supplier;
- (ii) number and weight, by species;
- (iii) date of sale or transfer; and
- (iv) name, address, and certificate of registration number of the receiver.

(b) A form for this information is provided by the division.

(c) This record must be sent to the division no later than January 30, and must be received before the certificate of registration may be renewed.

R657-16-11. Short-Term Fishing Events.

(1) A person sponsoring a short-term fishing event must obtain a certificate of registration prior to holding the event, except the division may conduct short-term fishing events for educational purposes without a certificate of registration.

(2)(a) A certificate of registration for a short-term fishing event may be obtained by applying to the Wildlife Registration Office at the division's Salt Lake City office a minimum of 10 days prior to the event.

(b) Application forms are available at all division offices.

(c) After review and confirmation by the division that the event poses no identifiable adverse threats to other fish or wildlife species, a certificate of registration may be issued.

(d) The certificate of registration may cover multiple events, which must be requested on the application form.

(3) A fishing license and bag limit is not required of participants in a short-term fishing event unless stated otherwise on the certificate of registration.

(4) For short-term fishing events where fishing licenses and bag limits under Rule R657-13 do not apply, a receipt must be given to participants transporting dead aquaculture products or aquatic wildlife away from the event. Such receipt must include the following information:

- (a) name of event sponsor;
- (b) date caught;
- (c) certificate of registration number; and

(d) species and number of dead aquaculture products or aquatic wildlife being transported.

(5) Live fish remaining at the end of the event may not be transported alive, released, or stocked.

(6) A certificate of registration for a short-term fishing event may be obtained by submitting an application and paying a fee in the amount established by the Wildlife Board.

R657-16-12. Private Stocking.

(1) An individual wishing to stock fish for private, noncommercial purposes in a body of water not covered by a certificate of registration as a private fish pond must first obtain a certificate of registration for private stocking.

(2) Fish released in a state water which is not covered by a certificate of registration as a private fish pond are considered wild aquatic wildlife and may be taken only as provided in Rule R657-13 and the fishing proclamation.

(3) A water that does not qualify as a private fish pond may not be screened to contain fish stocked (pursuant to a certificate of registration for private stocking), except that a water stocked with grass carp to control aquatic weeds must be adequately screened to prevent the grass carp from escaping.

(4)(a) Private stocking is limited only to those species approved on the certificate of registration.

(b) Species approval will be based on the biological suitability of the requested species compared to the needs of the fish and other wildlife in the drainage.

(c) An amendment to the certificate of registration is required each time fish are stocked, except the division may allow a person to stock fish more than once if the request is made on the application, and is approved by the division.

(d) Fish may be acquired only from a source that has a valid fish health approval number assigned by the Department of Agriculture.

(5)(a) An application for a certificate of registration for private stocking to stock fish other than grass carp may be approved only if:

- (i) on privately owned land;
- (ii) the body of water is a reservoir, the reservoir is wholly contained on the land owned by the applicant; and
- (iii) the body of water is not stocked or otherwise actively managed by the division.

(b) An application for a certificate of registration for private stocking of fish other than grass carp shall not be approved if:

- (i) the fish to be stocked are for a commercial purpose; or
- (ii) in the opinion of the division, stocking would cause harm to other species of fish or wildlife.

(6) An application for a certificate of registration for private stocking of triploid grass carp for control of aquatic weeds will be evaluated based upon:

- (a) the severity of the weed problem;
- (b) availability of other suitable means of weed control;
- (c) adequacy of screening to contain the grass carp; and
- (d) potential for conflict or detrimental interactions with other species of fish or wildlife.

(7) A certificate of registration for private stocking may be issued after review of the appropriateness of the requested species and inspection of the water to be stocked by a division representative to ensure compliance with the stipulations of this rule and the absence of any threat to other fish or wildlife species.

(8) A certificate of registration for private stocking may be obtained by submitting an application and paying a fee in the amount established by the Wildlife Board.

R657-16-13. Institutional Aquaculture.

(1) A certificate of registration is required for any public agency, institution of higher learning, school, or educational program to engage in aquaculture.

(2) Aquatic wildlife or aquaculture products produced by institutional aquaculture may not be:

(a) sold;

(b) stocked; or

(c) transferred into waters of the state unless specifically authorized by the certificate of registration.

(3) The fish health approval requirements of Section 4-37-501 apply.

(4)(a) A certificate of registration for institutional aquaculture may be obtained by submitting an application to the division.

(b) A certificate of registration may be renewed on or before July 31 each year by submitting an application and the records described in Subsection (5).

(5)(a) A person possessing a valid certificate of registration for institutional aquaculture must submit to the division a report of each acquisition, distribution, transfer, or stocking of live aquatic wildlife or aquaculture products.

(b) This report must be sent to the division no later than June 30, and must be received before the certificate of registration may be renewed.

(c) Documentation of source, quantity, species, health approval status, and destination of all live aquatic wildlife or aquaculture products must accompany all shipments or transfers.

R657-16-14. Display.

(1)(a) A certificate of registration is required to hold live aquatic wildlife or aquaculture products in an aquarium for the purpose of viewing or displaying for commercial or noncommercial purposes, except the division may hold live aquatic wildlife or aquaculture products in an aquarium for educational viewing or display without a certificate of registration. A certificate of registration is not required to display ornamental fish.

(b) Live aquatic wildlife or aquaculture products that are displayed must meet the health approval standards described in Section 4-37-501.

(2) Aquatic wildlife taken from the wild may not be displayed or held in an aquarium.

(3) Live aquaculture products held in an aquarium for display may not be transferred, sold alive, released, or stocked. They may be sold as long as they are first killed and prepared for consumption.

(4)(a) A certificate of registration for display of live aquaculture products in an aquarium may be obtained by submitting an application and paying a fee in the amount established by the Wildlife Board.

(b) The certificate of registration is renewable every five years on or before the renewal date as specified on the certificate of registration by submitting an application, paying a fee in the amount established by the Wildlife Board, and submitting the records described in Subsection (5).

(5)(a) A person possessing a certificate of registration for display must submit to the division an annual report of each purchase or acquisition of live aquaculture products. This report must include the following information:

(i) name, address, certificate of registration number, and health approval number of the source; and

(ii) number and weight acquired, by species.

(b) This record must be submitted to the division no later than January 30 each year, and must be received before the certificate of registration can be renewed.

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